

REMARKS

Claims 1, 3-5 and 7-20 are pending in the application. Claims 9-14 and 20 stand withdrawn. Claims 1, 3-5, 7, 8, and 15-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Montague (US 5798283). Claim 19 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Montague in view of Fladre (US 200410152272).

Applicant appreciates the opportunity for a telephonic interview between the Examiner and Applicant's attorney, John Conway, which was held on February 16, 2006. During the interview, it was agreed that amending claims 1 and 15 to require that the conductive path be layered directly on the oxide layer would distinguish over the Montague reference, since Montague's structure has an intervening nitride layer between the conductive path and the oxide layer.

Claims 1 and 15 have been amended to require that the conductive path be deposited directly on the oxide layer. Fig 2 and paragraph 28 of the subject application clearly teach depositing the conductive path directly on the oxide layer. No new matter has been added.

Claim Rejections -- 35 U.S.C. § 102(b)

Claims 1, 3-5, 7, 8, and 15-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Montague (US 5798283).

Amended claim 1 is directed to a method of forming a surface micromachined MEMS device having both circuitry and structure. Among other things, claim 1 requires "depositing a conductive path

directly on an oxide” that was applied to a substrate. This conductive path connects between the circuitry and structure. In contrast, Montague ‘283 does not teach such a process. Instead, the Montague reference teaches depositing polysilicon on a nitride layer. In particular, as shown in Figure 1 and col. 5, lines 30-35 of Montague, Montague’s MEMS device has a doped polysilicon layer 24 (a conductive path) on a nitride layer 22. Thus, Montague does not teach a required limitation of claim 1, as amended, and cannot anticipate claim 1. Accordingly, claim 1 is allowable over the cited art. Dependent claims 3-5, 7 and 8 are also allowable for the same reasons. Amended claim 15 and dependent claims 16-18 are also allowable for the same reasons.

Claim Rejections -- 35 U.S.C. § 103(a)

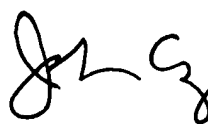
Claim 19 stands rejected under 35 U.S.C. 103(a) as being obvious over Montague in view of Fladre (US 200410152272).

The rejection for obviousness relies on Montague for teaching the limitations of claim 15, from which claim 19 depends. As shown above, Montague does not teach all of the limitations of claim 15, as amended. Fladre, likewise, does not provide the teaching, lacking in Montague of a conductive path layered directly on an oxide. Since neither Montague nor Fladre teaches or suggests this required limitation of claim 19, claim 19 cannot be obvious over any combination of the two references.

The Commissioner is hereby authorized to charge any deficiency in

the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 19-4972. Applicants request reconsideration of the rejected claims and a notice of allowance. The Examiner is requested to telephone the undersigned if any matters remain outstanding so that they may be resolved expeditiously.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John L. Conway', with a long, sweeping horizontal stroke extending to the right.

John L. Conway
Registration No. 48,241
Attorney for Applicants

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618
(617) 443-9292

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